

CAUSE NO. 22-CV-0675

EXHIBIT GC096

SALT & PEPPER RESTAURANTS, INC.,
Plaintiff

v.

TIGHT ENDS SPORTS BAR & GRILL, INC.
and TIMOTHY DUNGAN,
Defendants

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IN THE DISTRICT COURT

GALVESTON COUNTY, TEXAS

56th JUDICIAL DISTRICT

MOTION FOR CONTINUANCE AND MOTION TO WITHDRAW AS COUNSEL

TO THE HONORABLE COURT:

Defendants Tight Ends Sports Bar & Grill, LLC and Timothy Dungan request a continuance of the trial setting in this matter. Further, John Henry and John Henry & Associates, PLLC request permission to withdraw from representing Defendants in this case.

HISTORY

1. This case concerns a lease dispute among the parties.
2. Trial is currently set for October 3, 2023.
3. Plaintiffs last week served a motion for summary judgment. The parties have not yet mediated this case.

CONTINUANCE AND WITHDRAWAL

4. Defendants' counsel is a sole practitioner, and unfortunately, on the evening of July 20, 2023, he suffered a series of seizures that required hospitalization at Texas Presbyterian Hospital from July 20th to July 27th. Without belaboring the point, Counsel found out in the hospital that he has cavernomas, which are small areas of the brain with tangles of blood vessels that cause improper movement of brain and spinal tissue. They cause seizures, so Counsel is on preventative medication. Whether it is the condition or the medication, Counsel is unable to work as of August 31st.

5. Counsel is still dealing with these health issues and has been instructed not to drive until at least November. It is not known whether counsel will be able to practice again. As a result, and despite wanting to see this matter to a conclusion, Counsel has determined that he must close his law practice and withdraw from representation of all of clients in all open matters, including this one.

6. Counsel currently has five matters pending:

Dallas County Court at Law No. 2 – Cause No. CC-22-02974-B
Dallas County 191st District Court – Cause No. DC-22-17323
Dallas County 191st District Court – Cause No. DC-23-04043
Dallas County 14th District Court – Cause No. DC-22-08677
Galveston County 56th District Court - Cause No. 22-CV-0675 (this case)

A motion to withdraw has been filed in each of these cases.

7. Counsel is not holding any retainer or other property of Defendants.

8. Counsel cannot perform future obligations as required by the Texas Rules of Professional Conduct because of health reasons.

9. Good cause therefore exists for Counsel's withdrawal.

10. Defendant Tight Ends Bar & Grill, LLC must be represented by an attorney.

11. Defendants request a continuance to allow them to hire new counsel. Defendants agree that their new counsel will file a notice of appearance within 30 days of the date of the Court's order granting this motion. Defendants also request a continuance of the hearing date on Plaintiff's motion for summary judgment, and a continuance of its deadline to respond to the motion until 7 days before the new hearing date. Finally, Defendants request a continuance of the trial setting in this matter of at least 60 days.

RULE 10 REQUIREMENTS

12. This motion is agreed by Defendants as evidenced by their signatures on the consent

attached.

13. On July 25, 2023, Counsel sent an email to Plaintiff's attorney Preston Kamin letting him know that Counsel had a seizure and was still in the hospital. Mr. Kamin's associate acknowledged that they had received the email.

14. Then, on August 23, 2023, without having called, or emailed, or inquired at all about Counsel's status, Mr. Kamin filed a motion for summary judgment.

15. Counsel sent Mr. Kamin and his associate an email on August 26, 2023, and let them know that Counsel wouldn't be able to finish up the case along with a motion for continuance.

16. Mr. Kamin and his associate supplemented their discovery with invoices on August 29, 2023, but Counsel is not aware of any response or communication from Mr. Kamin or his associate concerning withdrawal.

17. A copy of this motion has been delivered to Defendants to their last known mailing address by both regular mail and certified mail.

18. No other attorney is to be substituted for Defendants' counsel at this time.

19. Defendants have been notified in writing of their right to object to the motion.

20. This matter is currently set for trial on October 3, 2023, at 10:00 a.m. There is also a motion for summary judgment that has been filed.

21. This motion for withdrawal and continuance is not sought for delay, but because Defendants' counsel is unable to represent them further because of health issues.

22. Defendants' last known address is 5584 State Hwy 121, Plano, TX 75024

Respectfully submitted,

John Henry & Associates, PLLC

/s/ John P. Henry

John P. Henry

State Bar No. 24055655

407 West Liberty Avenue

Round Rock, Texas 78664

(972) 338-3630

jhenry@jhenrylaw.com

ATTORNEY FOR DEFENDANTS

VERIFICATION

THE STATE OF TEXAS

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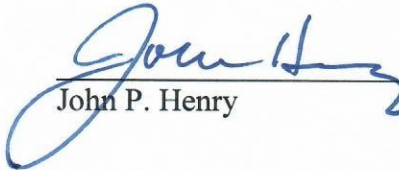
COUNTY OF DALLAS

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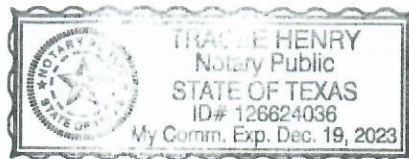
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BEFORE ME, the undersigned authority, personally appeared John P. Henry, who stated, upon oath, that the statements made in the foregoing motion are within his personal knowledge and are true and correct and states more specifically as follows:

1. My name is John P. Henry.
2. I am the attorney of record for Defendants.
3. All of the statements contained in the above motion are true and correct.


John P. Henry

SUBSCRIBED AND SWORN BEFORE ME ON August 26, 2023, by John P. Henry.



Notary Public in and for the
State of Texas

My Commission Expires: _____

**WRITTEN NOTIFICATION TO CLIENT OF
CLIENT'S RIGHT TO OBJECT TO THIS MOTION**

The clients of the attorney seeking withdrawal are notified hereby that they have a right to object to this motion. If the client wishes to object, then the client should file a written objection with the court and appear at the hearing to be scheduled on this matter. The client will receive a separate notice of hearing containing the date and time for the hearing.

CLIENT CONSENT

We hereby consent to the withdrawal of John Henry and John Henry & Associates, PLLC from representation of us.



Tight Ends Sports Bar & Grill, LLC
By: Timothy Dungan, President



Timothy Dungan

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2023, a true and correct copy of the foregoing document was served on all parties and Plaintiffs pursuant to Texas Rules of Civil Procedure 21 & 21a.

Tight Ends Sports Bar & Grill, LLC
Tim Dungan
5584 State Hwy 121
Plano, TX 75024
**VIA EMAIL, REGULAR MAIL, and
CM/RRR**

Preston Kamin
Gray Reed
1300 Post Oak Blvd., Suite 2000
Houston, Texas 77056
ATTORNEYS FOR PLAINTIFF
VIA EMAIL pkamin@grayreed.com

/s/ John P. Henry

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

John Henry on behalf of John Henry

Bar No. 24055655

jhenry@jhenrylaw.com

Envelope ID: 79094521

Filing Code Description: Motion for Continuance

Filing Description: Motion for Continuance and Motion for Withdrawal of Counsel

Status as of 8/31/2023 8:15 AM CST

Associated Case Party: Salt & Pepper Restaurants, Inc.

Name	BarNumber	Email	TimestampSubmitted	Status
Preston TKamin		pkamin@grayreed.com	8/30/2023 8:40:51 PM	SENT
Tyler J.McGuire		tmcguire@grayreed.com	8/30/2023 8:40:51 PM	SENT

Associated Case Party: Tight Ends Sports Bar & Grill, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
John Henry		jhenry@jhenrylaw.com	8/30/2023 8:40:51 PM	SENT